Colchester Public Schools

CONTRACT

In compliance with P.A. 16-189, An Act Concerning Student Data Privacy

AGREEMENT

Lexia Learning Systems LLC

And

The Colchester Board of Education

This Agreement ("Agreement") is entered into on **August 24, 2020** between the Colchester Board of Education (the "Board") and **Lexia Learning Systems LLC** ("Contractor") (collectively, the "Parties") for the purpose of identifying the obligations of the Parties relative to the confidentiality of student data.

Article I. Definitions. For purposes of this Agreement, "directory information," "de-identified student information," "personally-identifiable information," "school purposes," "student information," "student records," "student-generated content," and "targeted advertising," shall be as defined by Public Act 16-189. "Education records" shall be defined by the Family Educational Rights and Privacy Act of 1974 ("FERPA"), codified at 20 U.S.C § 1232g (as amended); and its implementing regulations, 34 CFR 99.1 - 99.67 (as amended).

Article II. Purpose of Agreement: The Parties agree that the purpose of this Agreement is to detail the obligations of both Parties relative to the safety and confidentiality of student information, student records and student-generated content (collectively, "student data"), which student data may be provided to the Contractor in connection with Contractor's provision of one or more of the following professional and non-instructional services (check those applicable):

- ☐ Medical consultation
- ☐ Special education consultation or audit
- ☐ Academic program consultation or audit (non-special education)
- ☐ Behavior intervention/Positive behavior intervention supports consultation or audit
- ☐ Information technology consultation or audit

X Student data storage, maintenance, collection and/or analysis

X Other (explain): provision of subscribed services/products

Article III. General Provisions

A. All student data provided or accessed pursuant to this Agreement is and remains underthe control of the Board. All student data are not the property of, or under the control of, the Contractor.

B. The Board may provide written request for the Contractor delete student data in the Contractor's possession by sending such request to the Contractor. The Contractor will delete the requested student data within twenty-eight (28) days of receiving such a request.

C. The Contractor shall not use student data for any purposes other than those authorized in this Agreement, and may not use student data for any targeted advertising.

D. If the Contractor receives a request to review student data in the Contractor's possession directly from a student, parent, or guardian, the Contractor agrees to refer that individual to the Board and to notify the Board. The Contractor agrees to work cooperatively with the Board to permit a student, parent, or guardian to review personally identifiable information in student data that has been shared with the Contractor, and correct any erroneous information therein, by honoring the Board's request for such information.

Article IV. Security and Confidentiality of Student Data. The Contractor and the Board shall ensure that they each comply with the FERPA. Further, the Contractor shall take actions designed to ensure the security and confidentiality of student data, including but not limited to:

A. Using technologies and methodologies consistent with the guidance issued in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, § 13402(h)(2), 42 U.S.C. §17932;

B. Maintaining technical safeguards relating to the possession of education records in a manner consistent with 45 C.F.R. 164.312;

C. Otherwise meeting or exceeding industry standards relating to the safeguarding of confidential information.

Article V. Prohibited Uses of Student Data

A. The Contractor shall not use student data for any purposes other than those authorized pursuant to this Agreement or by Public Act 16-189, as amended by state legislature.

B. The Contractor shall not retain, and the Board shall not otherwise make available, any student data upon the end of Contractor's standard data retention term of the Board's earlier written request unless a student, or parent or legal guardian of a student chooses to establish or maintain an electronic account with the Contractor for the purpose of storing student-generated content.

C. During the entire effective period of this Agreement, the Board shall have control of any and all student data provided to or accessed by the Contractor. If a student, parent or guardian requests deletion of student data, the Contractor agrees to notify the Board immediately, but no later than five (5) business days after receiving such a request, and agrees to not delete such student data because it is controlled by the Board. The contractor shall destroy any and all student data within a reasonable period of time if the Board requests the deletion of such student data in writing.

D. The Contractor shall not collect, store, or use student data or persistent unique identifiers for purposes other than the furtherance of school purposes, as determined by the Board or as permitted by this Agreement

E. The Contractor shall not sell, rent or trade student data. In the event the Contractor merges or is purchased by another entity, the Contractor must notify the Board in writing. This Agreement may be assigned by Contractor to an affiliate or in connection with a merger, consolidation or sale of substantially all assets with the Board's written approval.

Article VI. Data Breaches

A. Upon the discovery by the Contractor of a confirmed breach of security that results in the unauthorized release, disclosure, or acquisition of student data, the Contractor shall provide initial notice to the Board as soon as reasonably possible, after such discovery ("Initial Notice"). The Initial Notice shall be delivered to the Board by electronic mail to Superintendent Jeffrey E. Burt, jburt@colchesterct.org or to the contact currently on file and shall include the following information, to the extent known at the time of notification:

1. Date and time of the breach;

2. Names of student(s) whose student data was released, disclosed or acquired;

3. The nature and extent of the breach;

4. The Contractor's proposed plan to investigate and remediate the breach.

B. Upon discovery by the Contractor of a confirmed breach, the Contractor shall conduct an investigation and restore the integrity of its data systems and, without unreasonable delay, but not later than thirty (30) days after discovery of the breach, shall provide the Board with a more detailed notice of the breach, including but not limited to the date and time of the breach; name(s) of the student(s) whose student data was released, disclosed or acquired; nature and extent of the breach; and measures taken to ensure that such a breach does not occur in the future.

C. The Contractor agrees to cooperate with the Board with respect to investigation of the breach and to reimburse the Board for actual documented costs legally required of the Board associated with responding to the breach if caused by the Contractor as required by Public Act 16-189.

D. 1. Data was released, disclosed or acquired, names of other students;

2. Date and time of the breach.

Article VIII. Choice of Law, Choice of Forum, Merger, Severability

A. Choice of Law. The parties agree that this agreement and any disputes arising from or relating to this Agreement, including its formation and validity, shall be governed by the laws of the State of Connecticut.

B. **Choice of Forum.** The parties agree that any and all disputes arising from or relating to this Agreement, including its formation and validity, shall be settled in the State of Connecticut.

C. **Amendment.** This Agreement may be changed, amended, or superseded, only upon an agreement in writing executed by both parties hereto.

D. **Severability.** A court finding of invalidity for any provision of this Agreement does not invalidate other provisions or applications that are not affected by the finding.

This Agreement is effective upon execution by both parties and shall continue until *the end of the contract period.*

Colchester Board of Education

by _____ 9/24/2020

Jeffrey E. Burt Date
Superintendent of Schools

Company: Lexia

by _____ 23-Sep-2020

Print Name: Peter Koso Date
Title: Vice President